

### **REMARKS**

Claims 14 and 16-19 are all the claims pending in the application. Previously, claims 1-13 were, and now claim 15 is, canceled without prejudice or disclaimer. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

#### **Double Patenting**

- The Examiner rejected claim 15 under §101 as claiming the same invention as that of claim 1 in prior US Patent 6,524,008. Applicants have canceled claim 15 from this application and, therefore, this rejection is believed to be moot.
- The Examiner rejected claims 14 and 16-19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of US Patent 6,524,008. Applicants have submitted herewith a terminal disclaimer and, therefore, this rejection is believed to be moot.

As noted in *Quad Environmental Technologies*, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of “obviation” into an admission or acquiescence or estoppel on the merits.<sup>1</sup>

#### **Claim Rejections - 35 U.S.C. § 103**

- The Examiner rejected claims 3 and 7-13 under §103(a) as being unpatentable over US Patent 5,560,715 to Mosby in view of US Patent 4,343,521 to Akabane et al. Applicants respectfully submit that this rejection has been made in error because in the Preliminary Amendment as filed on December 16, 2004, claims 1-13 were canceled without prejudice or disclaimer.

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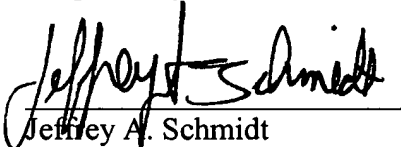
<sup>1</sup> *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ.2d 1392, 1394, 1395 (Fed. Cir. 1991).

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
Jeffrey A. Schmidt  
Registration No. 41,574

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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